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- (5) Removed subject to tax,
- (6) Removed in bond,
- (7) Otherwise disposed of without determination of tax,
- (8) Disclosed by inventory as a shortage, and
- (9) On hand, in bond, beginning of and end of month.

(b) *Report of wholesale prices of large cigars removed before January 1, 1991.* Every manufacturer of tobacco products who removes large cigars from his factory, and who issues announcements such as those described in this paragraph, shall make a report of each establishment or change of wholesale price (suggested delivered price to retailers) for large cigars. The report shall consist of a copy of each general announcement that the manufacturer issues within his organization or to the trade about establishment or changes of wholesale prices. Only one copy of an announcement need be submitted even if it relates to tobacco products removed subject to tax from more than one factory. If this copy does not show the actual date when the announcement was issued, or identify the factory or factories from which removals of the cigars covered by the announcement are made, then the copy shall be annotated to show this information. The factory or factories shall be identified either by permit number(s) or by name, city and state. If an intraorganizational announcement involves a forthcoming price change or new product which at the time of issuance is to remain confidential until a later date, the manufacturer may include a statement to this effect on the copy submitted. The copy shall be submitted to the Associate Director (Compliance Operations), Attn: Industry Control Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC

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20226, within five business days after the day issued.

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5722))

(Approved by the Office of Management and Budget under Control No. 1512-0358)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-40, 42 FR 5001, Jan. 26, 1977; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-307, 55 FR 52743, Dec. 21, 1990; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

§ 40.203 Statistical classification of large cigars.

Large cigars are divided into eight classes for statistical purposes, according to the wholesale price or sale price, as applicable. The eight classes are as follows:

(a) *Class A.* Large cigars with a wholesale price or sale price, as applicable of not more than \$33.00 per thousand.

(b) *Class B.* Large cigars with a wholesale price or sale price, as applicable of more than \$33.00 per thousand but not more than \$51.00 per thousand.

(c) *Class C.* Large cigars with a wholesale price or sale price as applicable of more than \$51.00 per thousand but not more than \$66.00 per thousand.

(d) *Class D.* Large cigars with a wholesale price or sale price as applicable of more than \$66.00 per thousand but not more than \$105.00 per thousand.

(e) *Class E.* Large cigars with a wholesale price or sale price, as applicable of more than \$105.00 per thousand but not more than \$120.00 per thousand.

(f) *Class F.* Large cigars with a wholesale price or sale price as applicable of more than \$120.00 per thousand but not more than \$154.00 per thousand.

(g) *Class G.* Large cigars with a wholesale price or sale price as applicable of more than \$154.00 per thousand but not more than \$235.294 per thousand, and

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(h) *Class H.* Large cigars with a wholesale price or sale price as applicable of more than \$235.294 per thousand.

[T.D. ATF-40, 42 FR 5002, Jan. 26, 1977, as amended by T.D. ATF-307, 55 FR 52743, Dec. 21, 1990]

PACKAGES

§ 40.211 Package.

All tobacco products shall, before removal subject to tax, be put up by the manufacturer in packages which shall be of such construction as will securely contain the products therein and maintain the mark and the notice thereon as required by this part. No package of tobacco products shall have contained therein, attached thereto, or stamped, marked, written, or printed thereon (a) any certificate, coupon, or other device purporting to be or to represent a ticket, chance, share, or an interest in, or dependent on, the event of a lottery, (b) any indecent or immoral picture, print, or representation, or (c) any statement or indication that United States tax has been paid.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28081, Aug. 5, 1986 T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

§ 40.212 Mark.

Every package of tobacco products packaged in a domestic factory shall, before removal subject to tax, have adequately imprinted thereon, or on a label securely affixed thereto, a mark as specified in this section. The mark may consist of the name of the manufacturer removing the product subject to tax and the location (by city and State) of the factory from which the products are to be so removed, or may consist of the permit number of the factory from which the products are to be so removed. (Any trade name of the manufacturer approved as provided in § 40.65 may be used in the mark as the name of the manufacturer.) As an alternative, where tobacco products are packaged and removed subject to tax by the same manufacturer, either at the same or different factories, the mark may consist of the name of such manufacturer if the factory where packaged is identified on or in the

package by a means approved by the Director. Before using the alternative, the manufacturer shall notify the Director in writing of the name to be used as the name of the manufacturer and the means to be used for identifying the factory where packaged. If approved by him the Director shall return approved copies of the notice to the manufacturer. A copy of the approved notice shall be retained as part of the factory records at each of the factories operated by the manufacturer.

(72 Stat. 1422; 26 U.S.C. 5723)

[T.D. 6871, 31 FR 36, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975; T.D. ATF-232, 51 FR 28081, Aug. 5, 1986; T.D. ATF-243, 52 FR 43194, Dec. 1, 1986]

§ 40.213 Tobacco products labeled for export.

Tobacco products labeled for export are ineligible for removal from the factory and distribution into the domestic U.S. market. Such products may only be sold, transferred or delivered onto the domestic U.S. market by a manufacturer of tobacco products after repackaging of the product. For the purposes of this section, "repackaging" shall mean the removal of the tobacco product from its original package bearing the export marks and placement of the product in a new package. The new packages, marks and notices must conform to the requirements of this subpart.

[T.D. ATF-421, 64 FR 71924, Dec. 22, 1999]

§ 40.214 Notice for cigars.

Before removal subject to tax, every package of cigars shall have adequately imprinted on it, or on a label securely affixed to it—

- (a) The designation "cigars";
- (b) The quantity of cigars contained in the package; and
- (c) For small cigars, the classification of the product for tax purposes (i.e., either "small" or "little").

(Sec. 202, Pub. L. 85-859, 72 Stat. 1422 (26 U.S.C. 5723))

[T.D. ATF-80, 46 FR 18310, Mar. 24, 1981]